(5)

1.

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Writ Petition No. 3846 of 2005

PETITIONER : Siddh Saktipeeth Shri Mahamaya Devi Mandir Trust, Ratanpur, A Trust registered under M.P. Public Trusts Act, 1951, being Registration No.59, Through Its Managing Trustee Dushyant Shukla Siddh Saktipeeth Shri Mahamaya Devi Mandir Trust, Ratanpur, District Bilaspur, Chhattisgarh.

Amendment as per Court order dt 18.8.05 18/8/05

- Versus -

RESPONDENTS:

1. State of Chhattisgarh, Through: The Secretary, Department of Revenue, Trust Etc. D.K.S. Bhawan, Raipur (C.G.).

2. The Collector, Bilaspur, District Bilaspur(C.G.)

3. Sub Divisional Officer(Revenue) Kota, District: Bilaspur (C.G.)

4. The Registrar, Public Trust, Kota, (Sub Divisional Officer (Revenue)), Kota District Bilaspur (C.G.)

VED-COPY 18/8/11 H.C. BILASPUR

WRIT PETITION UNDER ARTICLE 226/ 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF SUITABLE WRIT ORDER OR DIRECTION ETC.

(121)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... W.P.3846/ ..... **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	22-8-2005 Mr. Manindra Shrivastava, Senior Advocate with Mr. Sanjay K. Agrawal, Mr. Rajeev Shrivastava and Mr. Sourabh Sharma, Advocates for the petitioner. Mr. Sandeep Dubey, Govt. Advocate for the State/respondents. Dr. Shailesh Ahuja, Advocate for the interveners namely, Sushil Kumar Chandel, Manohar Lal Chandel, Manrakhan Lal Jaiswal & Badridhar Diwan. Mr. Awadh Tripathi, Advocate for intervener Sukhdev Singh Thakur. Mr. R.M. Solapurkar, Advocate for intervener Kimti Lal Juneja. Heard. The petitioner by way of the instant writ petition under Article 226/ 227 of the Constitution of India, has questioned the propriety of order dated 6th August, 2005 (Annexure P-8) passed by the Collector, Bilaspur, and order dated 6th August, 2005 (Annexure P-9) passed by respondent No.3 Sub Divisional Officer (Revenue) in the capacity of Registrar, Public Trusts, Kota, whereby under the orders of the Collector, the Registrar (Public Trusts) i.e. the S.D.O. cancelled the election of Siddh Saktipeeth Shri Mahamaya Devi Mandir Trust, Ratanpur, which was scheduled to be held on 7-8-2005 under the notice dated 21-7-2005 issued by the Managing Trustee of the petitioner	

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XI-HC-78

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Mandir Trust, and has further fixed the date of election as 28-8-2005 at 12 Noon.

The challenge of the petitioner is that under the instrument of creating petitioner Trust i.e. the trust deed as also under the Chhattisgarh Public Trusts Act, 1951, neither the Collector nor the Registrar are authorized to pass such an order.

Prima facie, the orders passed by the Collector and the Registrar (Public Trusts) show that the same are not in consonance with the trust deed and the Act of 1951.

During the course of hearing, learned counsel for the parties submitted that everybody's object is that the election should be held in a most fair and peaceful manner. Learned counsel for the parties agreed that for conducting the elections Mr. D.R. Sharma, Senior Advocate, who is also one of the Trustees of the Mandir Trust may be appointed as Election Officer, and he should be authorized to conduct the elections, and the voters should be allowed to cast their votes by a secret ballot.

Therefore, with the consent of learned counsel for the parties, Mr. D.R. Sharma, Senior Advocate and one of the Trustees of the Mandir Trust is appointed as Election Officer, who shall be the overall in charge for conducting elections of the Mandir Trust. Mr. D.R. Sharma should issue a fresh election programme whereby he can fix a date for inviting nomination papers, scrutinizing the same and after

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XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... W.P.3846/ ..... **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

finalizing/scrutinizing the nomination papers, fix the date for withdrawal of nomination and thereafter to publish the names of candidates, and the date of election, if necessary. The voters should be allowed to cast their votes by a secret ballot. Mr. D.R. Sharma shall be at liberty to take the assistance of any person for conducting the elections in a fair and peaceful manner. However, he shall conduct the elections within one month from today. All the authorities are directed to co-operate with Mr. D.R. Sharma in order to enable him to conduct elections in a fair and peaceful manner.

In view of this order, the order Annexure P-8 passed by the Collector, and the order Annexure P-9 passed by the Registrar, Public Trusts, stand quashed.

With the directions aforesaid, the petition stands disposed of.

Consequently, M.(W.)P.No.3234/2005, I.A.Nos.7212/2002, 7213/2005, 7214/2005, 7242/2005, 7243/2005 and 7244/2005 also stand disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

Soma

22.8.05 22.8.05 22.8.05